

Case No. 2:24-cv-02175-JAD

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

In re: BANQ INC.,
Debtor.

BANQ INC.,
Appellant,

v.

CREDITOR N9 ADVISORS, LLC,
Appellee.

Appeal from the United States Bankruptcy Court
for the District of Nevada
Before the Honorable Natalie M. Cox
[Case No. 23-12378-NMC (Chapter 11)]

**STIPULATION TO CORRECT AND
SUPPLEMENT THE RECORD ON APPEAL AND
EXTEND BRIEFING DEADLINES (FIRST
REQUEST)**

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Attorneys for Appellant Banq Inc.

Pursuant to Local Rules¹ ~~1A-1~~, ~~1A-2~~, and 7-1, Appellant Banq Inc. (“Banq”) and Appellee Creditor N9 Advisors, LLC (“N9” and collectively with Banq, the “Parties”), by and through their respective undersigned counsel, hereby stipulate to correct and supplement the record on appeal (the “Record”) pursuant to Bankruptcy Rule 8009(e)(2)(A) and extend the deadlines to file and serve briefs pursuant to Bankruptcy Rule 9006(b)(1), and request that the Court grant the same for good cause, as shown below. This is the first stipulation for an extension of time regarding the briefing deadlines.

RECITALS

1. WHEREAS, on October 23, 2024, the instant appeal (the “Appeal”) from the underlying bankruptcy case styled as *In re Banq Inc.*, Case No. 23-12378-NMC (the “Bankruptcy Case”) pending in the U.S. Bankruptcy Court for the District of Nevada (the “Bankruptcy Court”) was docketed in the above-captioned Court (the “District Court”).

2. WHEREAS, on November 6, 2024, Banq timely filed its *Statement of Issues and Designation of Record on Appeal by Debtor Banq Inc. (Appellant)* [ECF No.² 307] in the Bankruptcy Case pursuant to Bankruptcy Rule 8009(a)(1).

¹ All “Local Rule” references are to the Local Rules of Practice for the United States District Court for the District of Nevada. All “Bankruptcy Rule” references are to the Federal Rules of Bankruptcy Procedure.

² All “ECF No.” references are to the numbers assigned to the documents filed in the Bankruptcy Case as they appear on the docket maintained by the Clerk of the

3. WHEREAS, on November 20, 2024, N9 timely filed *Appellee Creditor N9 Advisors, LLC's Supplemental Designation of Items to Be Included in the Record on Appeal* [ECF No. 309] in the Bankruptcy Case pursuant to Bankruptcy Rule 8009(a)(2).

4. WHEREAS, Banq did not order any additional transcripts for the Record pursuant to Bankruptcy Rule 8009(b)(1)(A). Through inadvertence, Banq did not file the requisite certificate stating that it would not be ordering transcripts (the "Certificate of No Transcript Order") with the Clerk of the Bankruptcy Court pursuant to Bankruptcy Rule 8009(b)(1)(B).

5. WHEREAS, due to the absence of Banq's Certificate of No Transcript Order, the deadline for N9 to order additional transcripts for the Record pursuant to Bankruptcy Rule 8009(b)(3) was never triggered and set.

6. WHEREAS, on November 21, 2024, the Clerk of the Bankruptcy Court filed the *Certificate of Readiness* [ECF No. 312] (the "Certificate of Readiness") in the Bankruptcy Case pursuant to Bankruptcy Rule 8010(b)(1), certifying in error that that the Record was complete, notwithstanding the inadvertence referenced above.

7. WHEREAS, on November 21, 2024, after the Certificate of Readiness

Bankruptcy Court. All "App. ECF No." references are to the numbers assigned to the documents filed in the Appeal as they appear on the docket maintained by the Clerk of the District Court. All "CC ECF No." references are to the numbers assigned to the documents filed in the Companion Case as they appear on the docket maintained by the Clerk of the District Court.

was filed, N9 immediately ordered transcripts of the entire proceedings held in the Bankruptcy Case on August 22, 2023, October 3, 2023, October 24, 2023, and June 11, 2024 (the “Supplemental Transcripts”) on a seven-day turnaround time from the court reporter.

8. WHEREAS, on November 22, 2024, the Clerk of the District Court entered the Certificate of Readiness [App. ECF No. 4] on the docket for the Appeal pursuant to Bankruptcy Rule 8010(b)(3).

9. WHEREAS, on November 22, 2024, upon entry of the premature Certificate of Readiness, the District Court entered a *Minute Order* [App. ECF No. 5] in chambers, setting the briefing schedule in the Appeal as follows: Banq to file its Opening Brief and corresponding Appendix no later than December 6, 2024; N9 to file its Answering Brief and any corresponding Supplemental Appendix no later than December 20, 2024; and Banq to file its Reply Brief no later than January 3, 2025.

10. WHEREAS, also on November 22, 2024, in the related appellate case *Banq Inc. v. Creditor N9 Advisors, LLC*, Case No. 2:2024-cv-02025 (the “Companion Case”) – which has the same issue of the entry of a premature *Certificate of Readiness* [CC ECF No. 6] – the District Court entered an identical *Minute Order* [CC ECF No. 7] in chambers, which set the briefing schedule in the Companion Case as follows: Banq to file its Opening Brief and corresponding

Appendix no later than December 6, 2024; N9 to file its Answering Brief and any corresponding Supplemental Appendix no later than December 20, 2024; and Banq to file its Reply Brief no later than January 3, 2025.

11. WHEREAS, the Parties agree that the Record for the Appeal and the Record for the Companion Case are both currently incomplete, and the respective Certificate of Readiness for each matter was prematurely transmitted to the District Court.

12. WHEREAS, the Parties agree that the Supplemental Transcripts should be added to both the Record for the Appeal and the Record for the Companion Case to correct each, at which point the Record for each matter will be complete.

13. WHEREAS, on December 2, 2024, the Supplemental Transcripts were filed in the Bankruptcy Case. *See* ECF Nos. 313-316.

14. WHEREAS, the Parties intend to file Stipulations with the Bankruptcy Court pursuant to Bankruptcy Rule 8009(e)(2)(A) to have the Clerk of the Bankruptcy Court correct both the Record for the Appeal and the Record for the Companion Case by adding the Supplemental Transcripts to each and thereafter issue amended Certificates of Readiness.

15. WHEREAS, the Parties are also currently discussing the potential for resolution of certain issues which may affect the Appeal and the Companion Case.

16. WHEREAS, the Parties believe that, based on the current settlement

discussions, as well as the upcoming holidays, the current schedules of the respective undersigned counsel for the Parties, the need to correct and supplement the Record for the Appeal and the Record for the Companion Case, and the narrow timeline in which to file multiple briefs and appendices, good cause exists to extend the deadlines to file and serve briefs pursuant to Bankruptcy Rule 9006(b)(1).

17. WHEREAS, the Parties request that the Court extend the deadlines to file and serve briefs in the Appeal as follows: Banq to file its Opening Brief and corresponding Appendix no later than January 13, 2025; N9 to file its Answering Brief and any corresponding Supplemental Appendix no later than February 28, 2025; and Banq to file its Reply Brief no later than March 14, 2025.

18. WHEREAS, the Parties intend to file a substantially similar filing to the current one in the Companion Case.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, the Parties stipulate and agree as follows, and seek the District Court's approval of the same:

1. The Parties shall correct and supplement the Record for the Appeal with the addition of the Supplemental Transcripts by filing a Stipulation with the Bankruptcy Court pursuant to Bankruptcy Rule 8009(e)(2)(A).

2. The deadline for Appellant Banq Inc. to file and serve its Opening Brief and corresponding Appendix is extended from December 6, 2024 to January 13,

2025.

3. The deadline for Appellee Creditor N9 Advisors, LLC to file and serve its Answering Brief and any corresponding Supplemental Appendix is extended from December 20, 2024 to February 28, 2025.

4. The deadline for Appellant Banq Inc. to file and serve its Reply Brief is extended from January 3, 2025 to March 14, 2025.

IT IS SO STIPULATED.

Dated: December 4, 2024

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ORDER

Based on the parties' stipulation [6] and good cause appearing, IT IS SO ORDERED. The Court extends the deadlines to file and serve briefs in the Appeal as follows: Banq to file its Opening Brief and corresponding Appendix no later than January 13, 2025; N9 to file its Answering Brief and any corresponding Supplemental Appendix no later than February 28, 2025; and Banq to file its Reply Brief no later than March 14, 2025.



U.S. District Judge Jennifer A. Dorsey
Dated: December 9, 2024